CHIA KAY HENG & ANOR.

v.

CHIA KIM SIAH & ANOR.

COURT OF APPEAL, SINGAPORE
WEE CHONG JIN CJ
LAI KEW CHAI J
YONG PUNG HOW J
[CIVIL APPEAL NO. 5 OF 1989]
6 SEPTEMBER 1990

EVIDENCE: *Land transaction - Death of joint tenant - Requisitions by purchaser's solicitor - Wording of requisition - Whether death needs to be proved by grant of probate or letters of administration - Registration and payment of estate duty - Whether certified copy of death certificate sufficient - Best evidence.*

LAND LAW: *Sale and purchase - Death of joint tenant - Requisition - Whether grant of probate or letters of administration necessary - Certified copy of death certificate - Whether needs to be registered for title to be valid - Proof of payment of estate duty.*

SUCCESSION: *Probate - Joint tenant - Death - Land transaction - Whether grant probate or letters of administration necessary - Certified copy of death certificate - Registration requirements.*

On 14 July 1988 the appellants A entered into an agreement to purchase the said property from the respondents R; the sale was subject to the Singapore Law Society's Conditions of Sale 1981 (LSS). It was discovered that the property was on 11 February 1966 conveyed to C & G as joint tenants and subsequently on 14 March 1981 to G as sole owner due to the death of C. As the assignment dated 14 March 1981 was not at least 20 years old at the date of the contract, solicitors could not rely on s. 3(3) of the Conveyancing and Law of Property Act (the Act). The parties then entered into correspondence of requisition 15 and answers thereto; A requested grant of probate or letters of administration for registration so that the title to the property would be valid. R contended that as a matter of law, the property vested in C irrespective of whether there was a grant of probate or letters of administration and that the death certificate was sufficient proof of death. R's solicitors sent a copy of the certified true copy of C's death certificate dated 8 October 1976.

On that day, A commenced proceedings under s. 4 of the Act for repayment of deposit and costs of the agreement due to the fact that R had not sufficiently answered requisition 15. R's solicitors then sent a certified true copy of the grant of letters of administration to A's solicitors. However A's solicitors requested the original grant or a copy certified by the High Court. R's solicitors then gave A, 21 days notice to complete.

On 11 November 1988, an interim order was made for R to produce to A certified true copy of the grant of letters of administration and for A to complete the sale and purchase of the said property within 14 days of such production. The sale was eventually completed on 28 November 1988. The issue for the Court when the matter came to trial is whether A was justified in having insisted that R should produce and register the grant of letters of administration of C's estate against the property before completion of the sale and purchase and also proof of payment of estate duty. The Court decided that R had shown good title to the property and ordered A to pay R liquidated damages and costs. A appeals that decision.

Held:

[1] A purchaser such as A is bound and limited by his solicitor's statement in writing of his objections or requisitions in respect of title to the property; A's case must stand or fall by requisition 15 as it reads:

(a) Requisition 15 specifically demanded the production and registration of a grant of probate or letters of administration;

(b) Because of the wording of requisition 15 and because of their refusal to accept anything but a registered grant of probate or letters of administration, A's solicitors had waived any right they would otherwise have had to the production by R's solicitors of a certified true copy of the death certificate.

[2] A certified true copy of a death certificate is acceptable evidence of the death of the joint tenant which by the rule of survivorship, vested the entire interest in the property in the surviving joint tenant - it is in fact the primary evidence and the best evidence.

[3] If Parliament had intended that the registration of grant of letters of administration was the only acceptable way to prove the death of a deceased joint tenant, Parliament would have provided for the registrability of death certificates.

[4] In relation to R's contention that the objection by A as to possible non-payment of estate duty was out of time under LSS's condition of sale, the wording of requisition 15 cannot be so narrow as to preclude A from raising this question as one of two justifications for insisting that requisition 15 be complied with by R.

[5] The Court could not accept A's contention that registration of the grant of letters of administration would be the best evidence of payment of estate duty on C's interest in the property as firstly this evidence was not requested in requisition 15 and secondly if A's solicitors had accepted the true copy of the death certificate, it would have been clear that the estate duty had been paid, pursuant to s. 29(1) of the Estate Duty Act.

[6] On the facts of this case, R could have shown a good title at the date originally scheduled for completion of the sale and purchase by producing a certified copy of C's death certificate but were prevented by A from doing so, in circumstances which amounted to waiver.

[Appeal dismissed with costs.]

Legislation referred to:
Conveyancing and Law of Property Act [Sing], ss. 3(3), 4
Registration of Deeds Act (Cap 269) [Sing], s. 4
Estate Duty Act (Cap 95) [Sing], ss. 29, (1), 42
Registration of Births and Deaths Act (Cap 267) [Sing], s. 23(3), s. 25(5)

JUDGMENT

Wee Chong Jin CJ, Lai Kew Chai J, Yong Pung How J:

This is an appeal from the decision of Chan J, who dismissed the appellant's vendor and purchaser summons under s. 4 of the Conveyancing and Law of Property Act (Cap. 61, 1985 Edn.,). We dismissed the appeal and now give our reasons.

By an agreement contained in an option to purchase dated 14 July 1988 which was exercised by the appellant on 26 July 1988, the respondents agreed to sell and the appellants agreed to buy the land which is comprised in Lot 266-28 of Mukim 18 together with the building thereon and which is known as No. 14 Ripley Crescent, Serangoon Garden Estate, Singapore, ("the property") at the price of four hundred and ninety thousand dollars S$490,000).

It was a term of the sale that the title to the property must be in order and free from encumbrances. The sale was subject to the Singapore Law Society's Conditions of Sale 1981. Completion of the sale was due on 19 October 1988.

In the course of investigating the title, the appellants' solicitors discovered that the property was by an indenture of assignment dated 11 February 1966 conveyed to one Chia Kum Lum and one Goh Cha Kun (as she was then described) as joint tenants, and subsequently by an indenture of assignment dated 14 March 1981 conveyed by Goh Cha Kun (as she was then described) as sole owner to the respondents.

Both indentures of assignment were registered in the Registry of deeds.

The recital to the indenture of assignment dated 14 March 1981 stated, *inter alia*, that the said Chia Kum Lum had died on 8 August 1976 at No. 14 Ripley Crescent, Singapore and that the said Goh Cha Kun had by operation of law become solely and absolutely entitled to the property.

As the indenture of assignment dated 14 March 1981 was not at least 20 years old at the date of the contract, the appellants' solicitors could not rely on s. 3(3) of the Conveyancing and Law of Property Act and treat the recital a sufficient evidence of the truth of the matters stated therein.

On 23 September 1988, the appellants' solicitors served on the respondents' solicitors a set of requisitions on title relating to the said property, number 15 of which requisitions reads as follows:

> 15. The property was sold and conveyed to the (respondents) by Goh Cha Kun as owner solely entitled to the property upon the death of the joint owner Chia Kum Lum. The grant of probate/letters of administration of the will/estate of the deceased joint owner should be registered against the property. Please confirm that this will be done before completion.

The reply on 27 September 1990 from the respondents' solicitors to requisition reads:

Not admitted.

On 29 September 1988, the appellants' solicitors wrote to the respondent's solicitors to say:

> As no evidence has been produced of the death of the joint owner Chia Kum Lum, the grant of probate/letters of administration of the will/estate of the deceased joint owner must be produced and registered against the property as otherwise the title is defective.

Kindly let us have your confirmation as soon as possible if the above will be done.

On 30 September 1988, the respondents' solicitors wrote back to say:

> As Chia Kum Lum and Goh Chia Kun were joint owners, the property is vested in the surviving joint owner by operation of law irrespective of whether there was a grant of probate/ letter (*sic*) of administration. We therefore do not agree that the title is defective unless the grant is registered.

On 4 October 1988, the appellants' solicitors again wrote:

> The alleged operation of law vesting the property in the joint owner Goh Cha Kun will only arise on the death of Chia Kum Lum which death must be strictly proved by the production of a grant of letters of administration or probate and where the grant is less than 12 years old it must be registered against the property.
>
> You have therefore up to date failed to comply with the above requirements and until it is done, your clients are not in a position to pass a good title to our clients.

On 6 October 1988, the respondents' solicitors replied:

> We do not agree that the death of Chia Kum Lum must be proved by production of a grant of letters of administration or probate. Death can and is usually proved by production of a certificate copy of the death certificate. The deceased's interest passes to the surviving joint tenant upon death and upon the grant or execution of a grant.
>
> To put (*sic*) in another way, the vesting of the interest in the surviving joint tenant occurs and depends on the death of the surviving joint tenant and is not dependant on a grant being obtained. A grant is only one form of proving the death of a joint tenant but is clearly not the only form as obviously the production of the death certificate is sufficient proof of death.
>
> Our clients therefore need not produce a grant to you to be able to pass a good title to your clients as a certified copy of the death certificate would suffice.

On 7 October 1988, the appellants' solicitors wrote:

> Production of the grant of probate/letters of administration and registration thereof is necessary for the purpose of deducing title to the property. Unless the grant is registered it shall not be admissible in Court as evidence of the title to such land. Please refer to s. 4 of the Registration of Deeds Act (Cap 269).
>
> The death certificate may refer to any person by the same name and is just a piece of paper to any purchaser who has to accept the title. It is only of use as supporting evidence to be submitted to a Court of Law or other relevant authority as proof of the event.

On 10 October 1988, the respondents' solicitors replied:

> Section 4 of the Registration of Deeds Act is irrelevant as a grant would not "affect" the above property.
>
> Your proposition that title is defective unless a grant is registered is totally unsubstantiated in law and in conveyancing practice.

On 11 October 1988, the respondents' solicitors wrote to say that they would furnish on completion of the sale and purchase which was scheduled for 19 October 1988 a certified true copy of the death certificate of Chia Kum Lum.

On 11 October 1988, the respondents' solicitors wrote to the appellants' solicitors enclosing a copy of the certified true copy of the death certificate of Chia Kum Lum, which stated, *inter alia*, that he died on 8 October 1976 at No. 14 Ripley Crescent, Singapore 19, and indicated again that they would furnish the certified true copy on completion of the sale and purchase.

On the same day, the appellants instituted the proceedings below by way of an originating summons under s. 4 of the Conveyancing and Law of Property Act, seeking the following reliefs:

(1) A declaration that requisition 15 of the (appellants) in respect of the title to the (said property) has not been sufficiently answered by the (respondents);

(2) A declaration that a good title to the said property has not been shown in accordance with the (contract of sale);

(3) that the (respondents) may be ordered to repay the (appellants) a sum of S$49,000 being the amount of the deposit made with the (respondents), together with interest at such rate and for such period as the Court shall think fit;

(4) that the (respondents) be ordered to pay to the (appellants) their costs of investigating the title to the said property and the costs of and incidental to (the proceedings).

The originating summons was served on the respondents on 15 October 1988.

On 18 October 1990, the respondents' solicitors wrote:

> Notwithstanding that your clients are not entitled to demand for the grant of letters of administration, for the purpose of avoiding unnecessary and protracted litigations (*sic*). our instructions are to let you have a certified true copy of the grant of letters of administration.
>
> If you are agreeable, completion will take place on 20 October 1988 subject to us receiving the engrossed indenture of assignment for our clients' execution by 1 p.m. 13 October 1988.

This was the first time that the respondents' solicitors had acknowledged the existence of a grant of letters of administration of the estate of Chia Kum Lum.

It later became apparent that after the death of Chia Kum Lum on 8 August 1976, Goh Cha Kun (who was his widow and the surviving joint tenant of the said property) and her son, one Chia Kim Siah, obtained a grant of letters of administration on 4 February 1977 in probate No. 1440 of 1976. The grant was issued on 4 August 1978 after what is now s. 42 of Estate Duty Act (Cap 96, 1988 Edn.,) had been complied with. In accordance with the section, annexed to the grant was a schedule of the property of the deceased person and a certification by the Commissioner of Estate Duty that estate duty had been paid on the property.

On 20 October 1988, which was after the completion of the sale and purchase was due, the appellants' solicitors wrote:

> We note that you are able to supply a certified true copy of the grant of letters of administration and that your refusal to produce the same has been deliberate.
>
> We require the production of not just a certified true copy, but either the original grant or a copy certified by the High Court, which can be registered in the Registry of Deeds against the property.
>
> Our clients are prepared to discontinue the originating summons on the terms of each party paying its own costs, subject to the following conditions:
>
> 1. The production for our inspection of the original sealed copy of the grant of letters of administration with the usual schedule and certificate issued under s. 42(2) of the Estate Duty Act annexed thereto a copy certified by the Court,
> 2. An undertaking by you to cause the grant with the schedule and the certificate to be registered against the property; and
> 3. The date for completion to be extended by one week after resolution of the dispute between the parties.

On 28 October 1988, the respondents' solicitors wrote:

> We maintain our stand that your clients are not entitled to refuse to complete on the ground that our clients are not prepared to furnish a copy of the grant of letters of administration or register the same.
>
> We are instructed by our clients to and hereby do give your clients 21 days from the date hereof to complete the sale and purchase herein failing which our clients will exercise their rights under condition 29 of the (Singapore Law Society's Conditions of Sale 1981).

On 11 November 1988, an interim order was made by Sinnathuray J for, *inter alia*, the respondents to produce to the appellants a certified true copy of the grant of letters of administration of the estate of Chia Kum Lum and for the appellants to complete the sale and purchase of the property within fourteen days of the production of the said certified true copy of the grant.

The sale was eventually completed on 28 November 1988, after the respondents' solicitors produced to the appellants' solicitors a certified true copy of the grant issued with a schedule of the property of the deceased person and a certificate of payment of estate duty annexed thereto. The grant was not registered in the Registry of deeds. A certified true copy of the death certificate of Chia Kum Lum does not appear to have ever been furnished by the respondents' solicitors to the appellants' solicitors.

By the time the originating summons came up for hearing on 2 December 1988 before the learned Judge below, he had only to decide whether the appellants were justified in having insisted that the respondents should produce and register the grant of letters of administration of the estate of Chia Kum Lum against the property before the completion of the sale and purchase, and to make any consequential orders that might be necessary relating to the costs of the proceedings as well as any liquidated damages arising from the late completion.

After hearing the parties, the learned Judge reserved judgment till 15 December 1988, on which day he made a declaration that the respondents had shown a good title to the property and an order that the appellants do pay to the respondents liquidated damages in accordance with the Singapore Law Society's Conditions of Sale 1981 for the period 20 October 1988 to 28 November 1988 totalling S$4,832,80. The learned Judge also ordered the appellants to pay the respondents the cost of the proceedings. His decision is reported in [1989] 1 MLJ 272.

On appeal before us, the appellants sought the reversal of the learned Judge's decision and the following orders in substitution for those made by the learned Judge, namely:

(i) a declaration that the respondents had not shown a good unencumbered title to the said property **as at the date of the originating summons No. 1020 of 1988 to wit (14 October 1988):**

(ii) that the respondents repay the liquidated damages of S$4,832.80 which the appellants paid to them on (20 January 1989).

(iii) that the respondents do pay the appellants liquidated damages in accordance with the Singapore Law Society (*sic*) Conditions of Sale 1981 (Conditions 8(b) for the period from (20 October 1988) to (28 November 1988), being the actual date of completion;

(iv) that the respondents pay the costs of and incidentals (*sic*) to Originating Summons No. 1020 of 1988 together with the appellants' costs of investigating title to the said property.
(Emphasis is mine)

The issue before us (as before the learned Judge below) turned on whether the appellants were justified in having insisted that the respondents should produce and register the grant of letters of administration of the estate of the deceased joint tenant, Chia Kum Lum, against the property before completion of the sale and purchase.

Counsel for the appellants argued that the production and registration of the grant was necessary for two reasons, namely,

(i) to prove that the previous joint tenant, Chia Kum Lum, was dead - and, we would add, was dead before the indenture of assignment dated 14 March 1981; and

(ii) to prove that the property was freed from the first charge for the payment of estate duty imposed by s. 29 of the estate duty if he was indeed dead.

It may well be that a duly registered grant of letters of administration of the estate of a deceased joint tenant with a schedule of his property and a certificate of payment of estate duty annexed thereto would provide acceptable evidence of the death of the joint tenant which caused the cesser of the joint interest and also the release of the previously jointly owned property from the first charge imposed for the payment of estate duty.

However, it does not follow that such a registered grant is the only acceptable evidence of such death and of such release so that a purchaser of previously jointly owned property such as the appellants is entitled to insist that the vendor comply with a requisition on title which specific that a grant of probate of the will or a grant of letters of administration of the estate of a deceased joint tenant should be produced and registered against the property in the Registry of deeds before completion of the sale and purchase, or else he would not complete the sale and purchase.

Clearly, if some other acceptable evidence of such death and of such release can be and is produced by the vendor, the purchaser cannot insist on a form of evidence which for reason of his own he prefers.

Furthermore and equally important, a purchaser such as the appellants is bound and limited by his solicitors' statement in writing of his objections or requisitions, if any, in respect of the title to the property.

This is clear from condition 4 of the Singapore Law Society's Conditions of Sale 1981, which reads:

> 4. The purchaser shall within fourteen (14) days from the date of receipt of notice from the vendor that the title deeds are available for inspection or within fourteen (14) days of the receipt of the documents of title from the vendors' solicitors as the case may be or within such extended time as the vendor's solicitor may in writing allow deliver to the vendor's solicitor a statement in writing of his objections or requisitions, if any, in respect of the title, particulars, sale plan and these conditions, and **every objection or requisition not so stated shall be considered as waived. For the purpose of this condition, time shall be deemed of the essence of the contract**.
> (Emphasis is mine)

So, on the one hand, the vendor is under a duty to prove a good title when called upon to do so but, on the other hand, the purchaser is under a duty to investigate the title and to state his objections and requisitions, if any, in respect the title, by a certain time, failing which every objection or requisition not so stated shall be treated as waived, with the effect that the vendor will have proved a good title if he has removed all the objections and complied with all the requisition that were actually stated, unless they turn out to be unjustifiable.

Requisition 15 did not state that the respondents should provide evidence of the death of the previous joint tenant which had caused the cesser of the joint tenancy. Nor did it state that respondents should provide evidence of the release of the property from the first charge imposed for payment of estate duty, if any. If specifically demanded the production and registration of a grant of probate or letter of administration.

The appellants' case must stand or fall by requisition 15 as it reads. No reliance, therefore, could be made by the appellants on the fact that it was not until 11 October 1988, which was the date originally fixed for completion of the sale, a certified true copy of the death certificate of Chia Kum Lum and on the fact that it was not until 14 October 1988, which was the same day on which the appellants instituted the proceedings below, that the respondents' solicitors first furnished the appellants' solicitors with a **copy** of a certified true copy of the said death certificate.

In fact, no reliance could be made by the appellants on the fact that a certified true copy of the said death certificate does not appear to have been furnished at any time after that right up to the hearing of this appeal.

In our view, because of the wording of requisition 15, and because of their refusal to accept anything but a registered grant of probate or letters of administration, the appellants had waived any right they would otherwise have had to the production by the respondents' solicitors of a certified true copy of the said death certificate, which for reasons we shall give shortly, would have been sufficient on the facts to show a good title free from encumbrances.

Counsel for the respondents went a step further and argued in his written submissions that the appellants' objection to title prior to the proceedings had related exclusively to the alleged failure by the respondents to prove the death of the previous joint tenant, Chia Kum Lum, and that the question of estate duty was only raised for the first time by the appellants in the affidavit of their solicitor, Chew Su-Jin, filed on 14 October 1988 together with the originating summons below. That being the case, the respondents agreed, the objection as to possible non-payment of estate duty was stated out of the time period prescribed by condition 4 of the Singapore Law Society's conditions of Sale 1981, and must be treated as waived.

However, in our view, while it is true that the correspondence between the parties following requisition 15 would seem to suggest that the concern of the appellants' solicitors at the material time was with evidence of the death of Chia Kum Lum, we were not prepared to accept the contention that the wording of requisition 15 was so narrow as to preclude the appellants' solicitors from raising, either before the learned Judge or before us, the question of possible non-payment of estate duty as one or two justifications for insisting that requisition 15 be complied with by the respondents.

In our view, the correspondence which followed requisition 15 could not in law restrict its plain meaning, which was that the grant of probate or letters of administration should be registered, though for reasons which were not clearly stated in the requisition.

However, the wording of requisition 15 does in effect mean that the appellants' case would fail if there was in law and in fact in some other acceptable evidence to prove that the property was released from the first charge imposed on the payment of estate duty as well as some other acceptable evidence to prove the death of the joint tenant, Chia Kum Lum, so that production and registration of the grant of letter of administration was not necessary to show a good unencumbered title.

The question then was whether the appellants were justified in having insisted that the respondents should comply with a requisition that a grant of probate or letters of administration be produced and registered for the twin purposes, as they were later in turn revealed, of proving the death of the joint tenant and of the payment of any estate duty payable.

We had first to consider the question of what evidence was necessary to prove the death of the previous joint tenant, Chia Kum Lum.

Counsel for the appellants agreed in effect that anything short of a duly registered grant of letters of administration of his estate was insufficient evidence of his death for the purpose of showing good title. We did not accept this argument, which, if taken to its logical conclusion, would mean that a surviving joint tenant who, unlike in our case, was not also the next of kin entitled to obtain a grant of letters of administration unto himself, would find it difficult if not altogether impossible in some cases to show and to pass a good title to a purchaser.

We are of the view that a certified true copy of a death certificate is acceptable evidence of the death of the joint tenant, which, by operation of law, namely, the rule of survivorship, caused the cesser of the joint tenancy and vested the entire interest in the property in the surviving joint tenant. It is in fact the primary evidence and the best evidence.

There is no doubt that such evidence is admissible in Court.

Section 25(5) of the Registration of Births and Deaths Act (Cap 267, 1985 Edn.,) reads:

> (5) Every copy or extract of any entry in any register (of births and deaths) at each local registration area certified under the hand of the registrar for that area for the time being to be true copy or extract shall, subject to the limitation provided in s. 23(3), be *prima facie* evidence in all Courts and before all tribunals of the dates and facts set forth in such copy or extract.

Section 23(3) concerns a copy of an entry in a late register which has printed on it conspicuously the words "Late Registration", and has no relevance to this case.

We also did not accept the further argument of Counsel for the appellants that a certified true copy of the death certificate of Chia Kum Lum was insufficient for the purpose of proving title without an affirmation that the death certificate was that of "Chia Kum Lum, the joint owner with Goh Cha Kun" of the said property or words to that effect. In our view, the identity of a deceased person could be established by his name and address as stated in the death certificate as was in the case before us. We agreed with the learned Judge below that identity was a matter of proof in every case.

We also did not accept the further agreement that the registration of the grant of letters of administration in the Registry of deeds would establish a permanent record thereof and would facilitate the investigation of title in subsequent transactions, and was therefore the only acceptable way to prove the death of a deceased joint tenant.

In our view, if that had been the intention of Parliament, s. 4 of the Registration of Deeds Act (Cap 269, 1985 Edn.,) would have provided for the registrability of death certificates. This in a case such as the one before us would have been a more direct way to establish a permanent record at the Registry of deeds cesser of a joint tenancy by the death of one joint tenant than for the section to provide merely the registrability of letters of administration, which seemed to us to be a more circuitous way of achieving the same result, and could not have been the intention of Parliament in the case of a joint tenancy by death of one joint tenant.

We next turned to the questions of payment of estate duty.

It was the appellants' contention that registration of the grant of letters of administration would be the best evidence not only of the death of Chia Kum Lum but also of the payment of estate duty on Chia Kum Lum's interest in the property.

Because of, as we have said, the unsatisfactory way in which requisition 15 was worded, no reliance could, in our view, be made by the appellants on the fact that no evidence of the release of the property from the first charge imposed on the payment of estate duty had been produced by the respondents until sometime after the proceedings were commenced when the respondents produced an unregistered certified true copy of the grant of letters of administration of the estate of Chia Kum Lum with the usual schedule and certificate which stated that estate duty had in fact been paid.

It would have been a different matter if the appellants' solicitors had made it clear in requisition 15 that they required the respondents to produce evidence to satisfy then that the property was free from the first charge imposed for the payment of estate duty and the respondents had been unable or unwilling to produce such evidence.

On the facts, this was not the case.

Moreover, if the appellants' solicitors had accepted a certified true copy of the death certificate that Chia Kum Lum had died on 8 August 1976, as we think they were obliged to, then it would have been clear to them before the original completion date which was 19 October 1988 that by virtue of the proviso to s. 29(1) of the Estate Duty Act, the property was as from 7 August 1988 released from the first charge imposed on any estate duty payable, quite apart from whether it had actually been paid, because of the passage of 12 years from the date of Chia Kum Lum's death, which period ended on 7 August 1988.

Section 29(1) reads:

> 29. (1) Unless the estate duty is paid as hereinafter provided, the estate duty payable in respect of any property passing on the death of a deceased person shall be a first charge on all the immovable property of the deceased coming to an executor or being under his control, so far as the duty payable by such executor is concerned, and on the property passing to any other person, so far as the duty payable by such other person is concerned:
>
> Provided that immovable property or any estate or interest therein, is not, as against a purchaser for valuable consideration or a mortgagee, charged with or liable to estate duty after the expiration of 12 years from the happening of the event which gave rise to an immediate claim to such duty.

Clearly, then, the appellants were wrong to have insisted that the respondents should comply with requisition 15 for either of the two reasons which Counsel for the appellants gave as justification for such insistence.

Further, by the wording of requisition 15 reinforced by their refusal to accept anything but a registered grant of probate or letters of administration, the appellants had waived the production by the respondents of a certified true copy of the death certificate of Chia Kum Lum, which would have been on the facts sufficient to prove both the death of Chia Kum Lum and the release of the property from the first charge imposed by statute upon the payment of estate duty.

In our view, therefore, the respondents could have shown a good title at the date originally scheduled for completion of the sale and purchase by producing a certified true copy of the said death certificate, but were prevented by the appellants from doing so, in circumstances which amounted to waiver.

The appellants were plainly not entitled as at 14 October 1988, nor at any time thereafter, to the reliefs which they sought before the learned Judge below and they were rightly penalized for the late completion by an award of liquidated damages and costs were rightly ordered against them.

The appellants were plainly not entitled to the reliefs which they sought before us.

For all the above reasons, we dismissed the appeal with costs.

Also found at [1990] 2 CLJ 1064